

SEP 12 10 10 AM '62

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT FOR THE
COUNTY OF RIO ARriba COUNTY, STATE OF NEW MEXICO

JOSE G. CORDOVA,

Plaintiff,

-vs-

No. 8650

LUIS QUINTANA, GABRIEL VALDEZ,
and DELFIN QUINTANA,

Defendants.

C O M P L A I N T

The Plaintiff complains of the Defendants and for his cause of action alleges:

1. That the parties hereto are residents of the County of Rio Arriba, State of New Mexico, and that the property involved herein is located within said County and State.

2. That the Plaintiff is the owner free and clear of all liens and encumbrances of approximately one hundred (100) acres of land situated within Sections 25 and 36, Township 27 North, Range 4 East, N.M.P.M., of which a total of approximately one hundred (100) acres of land have from time immemorial had irrigation water rights from the Rito del Medio and from springs

Exhibit No. 1

situated on lands purchased by the Plaintiff and concerning which the above lands have been possessed of irrigation rights since before the year 1900.

3. That the Plaintiff and his Grantors and predecessors in interest have been the owners and have been seized and possessed of all the lands hereinabove described for more than sixty-two (62) years next preceding the commencement of this action, and during all of said time have been in the actual, continuous and exclusive possession of the same.

4. That the Rito del Medio is, and from time immemorial, has been a natural stream or water course arising in the mountains to the east and following in a general westerly direction in its natural course through, over and across the lands of the Plaintiff described herein; that said lands of the Plaintiff are riparian to the waters of said Rito del Medio naturally flowing over and across the lands of the Plaintiff described herein, and that said waters have, from approximately the year 1900 been used to irrigate a portion of said lands, which with use of said irrigation waters grows large and valuable crops of grass, abundant pasturage and feed, and that without said irrigation said lands would have produced little or no grass, pasturage, feed or other crops.

5. That further, on or about the 9th day of July, 1956, the Plaintiff herein filed a Declaration of Water Rights concerning the waters of said Rito del Medio arising from certain springs situated upon the lands of G. C. Martinez in Sections 20 and 21,

Township 27 North, Range 5 East, N.M.P.M., which said rights were registered in the Office of the State Engineer, State Capitol Building, Santa Fe, New Mexico, and which said declaration and rights have never been contested nor denied.

6. That on or about the year 1923, the owner of a certain sawmill was permitted certain water from the Rito del Medio for use in his sawmill, and that said waters were later appropriated by one Canuto Valdez, predecessor in interest of the Defendants herein, who filed for and received permission for the use of waters originating from National Forests lands and flowing down the Rito del Medio, which said permit was for the use of said waters only in irrigating a three-acre tract of land adjacent to the El Tanque Creek, which creek lies north of the Rito del Medio, and the waters were permitted to be appropriated only through the use of a diversion trough not in excess of one foot wide and six inches high.


7. That recently, and at a time unknown to the Plaintiff herein, the Defendants hired or used the services of a bulldozer and constructed a dam across the Rito del Medio and greatly widened and deepened the diversionary ditch, and have appropriated all of the waters of the Rito del Medio and diverted the same to their lands and the El Tanque Creek and have completely blocked off and prevented any waters whatever from following down the Rito del Medio.

8. That since the construction of said diversionary dam and ditch as aforesaid, the Plaintiff has been denied the use of any of the waters from said stream and Plaintiff's land has become dry and has grown no crops since the Plaintiff was unable to irrigate the same and to fill his stock tanks for the purpose of watering his cattle, all to his damage in the sum of \$10,000.00.

9. That the Plaintiff has been for several years last past and now is engaged in growing beef cattle on his said lands; that

it is necessary for Plaintiff to have the use of the waters of said stream in the conduct of his said business; and that by reason of the construction of said diversionary dam and ditch, the Defendants have made it impossible for the Plaintiff to adequately use his lands and have caused great and irreparable damage and injury to the Plaintiff herein and will cause irreparable damage in the future for which Plaintiff cannot be adequately compensated by monetary damages.

WHEREFORE, Plaintiff prays that his fee simple title and estate in and to said land and real estate, together with his right to the use of the waters from said Rito del Medio, may be established against the adverse claims of the Defendants herein and each of them; that the Defendants herein and each of them may be barred and forever estopped from claiming any right, title or interest in or to Plaintiff's said land and water rights, adverse to the Plaintiff; and that Plaintiff's title and estate in and to the same may be forever quieted and set at rest; and that the Plaintiff be awarded Judgment against the Defendants and each of them, jointly and severally, for damages in the amount of \$10,000.00; and further that the Defendants be restrained and enjoined upon the final hearing hereof, from obstructing the stream bed of the Rito del Medio and diverting the same to their lands and the El Tanque Creek and from using more than their rightful share of the waters from said creek.


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ATTORNEY FOR PLAINTIFF